IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 21 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NANAKMAL MOTUMAL

Versus

STATE OF GUJARAT

Appearance:

MR KV SHELAT for Petitioner

MR RC KODEKAR, AP for Respondent No. 1

MR NM KAPADIA for Respondent No. 2

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 17/02/2000

ORAL JUDGEMENT

Present petitioner-original accused of Criminal Case No.2770 of 1991 had submitted one application Ex.49 at the time when his further statement under Sec.313 of Cr.P.C. was recorded by learned Judicial Magistrate

(First Class), First Court, Surat. During that process, Court had asked him whether he wanted to examine himself as witness on oath. Replying in affirmative, he stated that he would like to examine himself as witness and by submitting above application Ex.49, he requested the Court to examine the handwriting expert also for verifying the signature of the petitioner-accused on the cheque in question. After hearing the parties, same was rejected by the Court against which, present Criminal Revision Application is preferred.

I have heard Mr.K.V.Shelat, learned counsel for the petitioner, Mr.R.C.Kodekar, learned counsel for the respondent No.1 and Mr.N.M.Kapadia, learned counsel for the respondent No.2.

At the end of arguments, learned counsel for the petitioner seeks permission to withdraw this petition with a request that if petitioner-accused wants to examine himself on oath as also the handwriting expert as his witness for verifying the signature of the petitioner-accused on the cheque in question, he may be given liberty to do so.

Permission is granted as prayed for. If the petitioner-accused desires to examine himself on oath as well as the handwriting expert as his witness to verify the signature of the petitioner-accused on the cheque in question in Criminal Case No.2770 of 1991 before the court below, then he should submit himself before the learned Judicial Magistrate (First Class) at Surat and in that event, court below should complete his further statement and if petitioner wants to examine handwriting expert as his witness, then he should do so within a period of three months from today. It is clarified that observation made by the court below while deciding application Ex.49 will not come in the way of deciding this matter. This Criminal Revision Application stands disposed of accordingly with the aforesaid direction. Rule is discharged. Ad-interim relief stands vacated.

Office is directed to send the writ to the court below and on receiving the same, court below should inform the parties accordingly.

(R.P.DHOLAKIA,J.)
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